

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application for a
Route Permit for the Hiawatha
Transmission Project

PREHEARING ORDER

A prehearing conference was held before Beverly Jones Heydinger, Administrative Law Judge, on August 4, 2009, at the Public Utilities Commission, 350 Metro Square Building, 121 Seventh Place East, St. Paul, Minnesota.

Appearances:

Lisa M. Agrimonti and Valerie T. Herring, Briggs and Morgan, P.A., and Jennifer Thulien Smith, Assistant General Counsel, Northern States Power Co., appeared on behalf of Northern States Power Company, (Applicant).

Paula G. Maccabee, Just Change Consulting/Law Offices, appeared on behalf of Midtown Greenway Coalition.

Corey M. Conover, Assistant City Attorney, appeared on behalf of the City of Minneapolis.

Colleen Schmidt, Director, appeared on behalf of Crew2, Inc.

Karen Finstad Hammel, Assistant Attorney General, appeared on behalf of the Department of Commerce, Office of Energy Security, Energy Facility Permitting Staff (Department).

Deb Pyle, Public Advisor, and William Storm, Project Manager, Department of Commerce, Office of Energy Security, were present.

Commission staff, Tricia DeBleeckere and Bob Cupit, were present.

Charles H. Salter, Assistant County Attorney, appeared for a limited purpose on behalf of Hennepin County and Hennepin County Regional Railroad Authority.

Discussion was held among the participants concerning the proposed schedule. The Administrative Law Judge makes the following Prehearing Order.

IT IS HEREBY ORDERED:

Intervention

1. At the prehearing conference, petitions for intervention were granted without objection to the City of Minneapolis and Crew2, Inc. Counsel for Hennepin County and Hennepin County Regional Railroad Authority stated that a petition for intervention may be filed on their behalf, as well as prehearing motions, but no decision had been made at that time.

2. Members of the public need not become formal parties to participate in the hearing. Members of the public may offer either oral or written testimony, and they may offer exhibits for inclusion in the record. Any person may "subscribe" to the E-docket system to receive electronic notice when documents are filed in E-docket in this matter. But any person desiring to become a formal party must file a petition to intervene.

3. Persons who wish to intervene in this proceeding are requested to file a written petition to intervene with the Administrative Law Judge no later than **December 14, 2009**, as set forth in Minn. R. 1400.6200. Any objections to the petitions shall be filed by **December 21, 2009**. The petition shall be served upon all parties, pursuant to the E-service list in effect at the time of the petition. A Notice of Appearance shall be filed with the Petition.

Schedule

4. The following schedule is adopted:

Direct Testimony,	January 11, 2010
Rebuttal Testimony	February 1, 2010
Surrebuttal Testimony	February 12, 2010
List of Proposed Exhibits and Witnesses	February 12, 2010

5. A combined public hearing and evidentiary hearing will be held on **February 22, 2010**, and will continue on February 23 – 26, 2010, as necessary to complete the hearings.

The time and place for the start of the hearing will be addressed in a subsequent order. It is anticipated that the Final Environmental Impact Statement will be filed by February 22, 2010.

6. Public Comments may also be submitted in writing to the Administrative Law Judge and must be received by 4:30 p.m. on **March 8, 2010**.

7. The parties shall file their post-hearing briefs according to a schedule to be determined at a later date.

Publication of Hearing Schedule

8. The staff and the Applicant shall develop a notice of hearing specifying the date, time and location of the hearing, for publication no fewer than 10 days and no more than 45 days in advance of the hearing, and shall serve notice as specified in Minn. Stat. § 216E.03, subd. 6. As required by Minn. R. pt. 7849.5330, subd. 1, at least a portion of the hearing must be held in the county where the proposed high voltage transmission line will be located, in this instance, in Hennepin County.

Date of Filing, Sending or Receipt

9. Any document that is filed, or is sent to request or in response to a request for discovery, or for any other purpose, after 4:30 p.m. on a business day, on a weekend day or on a Minnesota state holiday shall be considered filed, sent or received on the next business day.

Discovery

10. A party may serve requests for information on any other party. All requests for information shall be made in writing by e-mail, and the requesting party shall follow the e-mail with a copy of the request sent by regular U.S. mail or other delivery service to all parties, unless the party receiving the request agrees to e-mail service only. To the extent that a request includes material designated as Trade Secret or Nonpublic under the Minnesota Government Data Practices Act, Chapter 13, an e-mail request is required only between the requesting and responding party. Requests shall be sent to the person(s) designated to receive data requests by the party from whom the information is sought.

11. The party responding to the request shall provide the requested information to the requesting party within ten business days of receipt of the request. In accordance with Minn. R. 1400.6100, subpt. 1, the day that the information request is received shall not be counted in the ten-day period.

12. Responses to information requests shall be submitted by e-mail, and the responding party shall follow the e-mail with a copy of the response sent by regular U.S. mail or other delivery service, unless the party receiving the response agrees to e-mail service only. To the extent that a response includes material designated as Trade Secret or Nonpublic, an e-mail response is required only between the requesting party and the responding party.

13. In the event that due to the volume or nature of information included in a response, the responding party is unable to send the response by e-mail, the responding party shall send the response by facsimile, regular U.S.

mail or other delivery service so that the requesting party receives the entire response by the date due, including any material designated as Trade Secret or Nonpublic. Responding parties may utilize CDs to convey large volumes of data. If the response is sent by facsimile, the responding party shall follow the facsimile with a copy of the response sent by regular U.S. mail or other delivery service.

14. There shall be a continuing obligation to update and supplement information responses with any responsive material that may subsequently be discovered or acquired by the responding party. The responsive information need not be supplied to other parties unless specifically requested by a party.

15. A party that wishes to receive e-mail copies of requests or responses shall notify the requesting/responding party, who shall provide the information in that format. If the request or response contains material designated as Trade Secret or Nonpublic information, the providing party may seek a Protective Order in this matter before providing the information.

16. In the event the information cannot be supplied within ten business days, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and agree on a schedule of compliance with the requesting party.

17. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Hearings on such motions may be conducted by telephone conference call.

Prefiled Testimony

18. Prefiled testimony shall be marked as an exhibit with the case docket number and offered for admission into the record at the hearing. A hard copy shall be provided for that purpose and, if the document has been previously e-filed, the offering party shall provide the unique E-docket identifying number. The Administrative Law Judge will assign a hearing exhibit number to the document at the time that it is offered into evidence at the hearing.

19. Prefiled testimony that is amended or not offered into the record shall be considered withdrawn and no witness shall be cross-examined concerning the withdrawn testimony. Any new affirmative matter that is not offered in reply to another party's direct case will not be allowed in rebuttal testimony and exhibits. Except for good cause shown, all revisions or substantive corrections to any prefiled testimony shall be in writing and served upon the Administrative Law Judge and the parties no later than three days prior to the commencement of the evidentiary hearing.

Order of Testimony

20. Unless the parties agree otherwise, the order of testimony shall be: the Applicant, Midtown Greenway Coalition, City of Minneapolis, Crew2, Inc., additional intervenors, if any, in the order of intervention and the Department. Questioning of the witnesses shall proceed in the same order, subject to change by agreement of the parties or further order of the Administrative Law Judge.

Examination of Witnesses

21. Witnesses shall be allowed ten minutes to summarize their prefiled testimony. For good cause shown, witnesses will be permitted to respond to any new matters not addressed in prefiled testimony through direct examination.

22. Parties shall examine and cross-examine witnesses through their attorneys, if the parties are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

23. Except for good cause shown, objections by any party relative to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony, except surrebuttal testimony, shall be considered waived unless the objecting party states its objection by motion made to the Administrative Law Judge, and serves a copy of such objections on the parties, no later than **February 12, 2010**.

Procedure

24. The rules of the Office of Administrative Hearings and Minn. R. 7849.5010 et seq., govern the conduct of the hearings, and the Professionalism Aspirations adopted by the Minnesota Supreme Court will be observed.

Filing of Documents (Excluding Information Requests and Responses)

25. The service list for the contested case proceeding shall be maintained and revised as necessary by the Office of Administrative Hearings.

26. Prefiled testimony and exhibits may be in any reasonable format that is understandable, logically organized, and capable of being cited by page and line number, paragraph number, or similar identifier.

27. The parties have agreed to file all documents, including prefiled testimony, using the E-Docket system of the Public Utilities Commission, the Department and the Office of Administrative Hearings. Such e-filing constitutes service on those offices and upon any other party that has agreed to accept e-filing as service, as specified on the E-service list.

28. Documents or exhibits that can not be e-filed shall be mailed by U.S. Mail or delivered to the parties.

29. The effective date of filing shall be the date the document is e-filed, mailed by U.S. Mail, or delivered to the Administrative Law Judge. Parties using the E-file system must retain the unique document identifier as proof of service through that system. Proof of service shall be filed with each document or within three business days thereafter.

30. The original and one copy of each document shall also be mailed or delivered to the Administrative Law Judge.

31. After the Administrative Law Judge's Report is issued, the parties shall file the original of all documents with the Executive Secretary of the Commission.

32. If trade secret or nonpublic data is filed with the Administrative Law Judge, it shall be prepared and marked in accordance with the Public Utilities Commission's September 1, 1999, Revised Procedures for Handling Trade Secret and Privileged Data. The procedures may be viewed at www.puc.state.mn.us/PUC/consumers/data-practices/index.html. The party submitting the data may request a Protective Order.

Court Reporter

33. A court reporter will be present at the hearing. Parties must make arrangements with the court reporter to obtain a copy of the transcript.

Request for Accommodation

34. No person has requested accommodation for a disability or appointment of an interpreter. The Office of Administrative Hearings shall be notified promptly if either an accommodation or interpreter is needed.

Subpoenas

35. Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the Administrative Law Judge pursuant to Minn. R. 1400.7000. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at www.oah.state.mn.us.

Dated this 11th day of August, 2009.

s/Beverly Jones Heydinger
BEVERLY JONES HEYDINGER
Administrative Law Judge